

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

UNITED STATES OF AMERICA

v.

JOSHUA MATTHEW DELMAST

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CASE NO. 4:99cr91.8

**MEMORANDUM ADOPTING REPORT AND
RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE**

Came on for consideration the above-referenced criminal action, this Court having heretofore referred the request for modification of Defendant's supervised release to the United States Magistrate Judge for proper consideration. The Court has received the report of the United States Magistrate Judge pursuant to its order. As Defendant has waived his right to object, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct. Therefore, the Court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of the Court. It is, therefore,

ORDERED that the Magistrate Judge's Report is **ADOPTED** as the opinion of the Court.

It is further **ORDERED** that Defendant's supervised release is hereby **REVOKED**.

It is further **ORDERED** that Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of ten (10) months, with 48 months of supervised release to follow. Within 72 hours of release from the custody of the Bureau of Prisons, Defendant shall be required to report in person to the probation office in the district to which Defendant is released.

While on supervised release, Defendant shall not commit another Federal, state, or local crime, shall comply with the standard conditions that have been adopted by this Court, and shall comply with the following additional conditions:

Defendant shall pay a fine totaling \$1,500, and the restitution payments shall begin immediately. Any amount that remains unpaid when the Defendant's supervision commences shall be paid on a monthly basis at a rate of at least 10% of Defendant's gross income, to be changed during supervision, if needed, based on Defendant's changed circumstances pursuant 18 U.S.C. §3572(d)(3). Additionally, at least 50% of receipts received from gifts, tax returns, inheritances, bonuses, lawsuit awards, and any other receipt of money (to include, but not limited to, gambling proceeds, lottery winnings, and found money) shall be paid toward the unpaid fine balance within 15 days of receipt. The restitution is payable by cashier's check or money order made out to the United States District Court and forwarded to the Fine and Restitution Section, U.S. Courts, P.O. Box 570, Tyler, Texas 75710. Interest is waived.

Defendant shall provide the probation officer with access to any requested financial information for purposes of monitoring financial status.

Defendant shall not incur new credit charges or open additional lines of credit without the approval of the probation officer unless payment of any financial obligation ordered by the Court has been paid in full.

Defendant shall not illegally possess a controlled substance and shall refrain from any unlawful use of a controlled substance.

Defendant shall participate in a program of testing and treatment for drug abuse, under the guidance and direction of the U.S. Probation Office, until such time as Defendant is released from the program by the probation officer.

Defendant shall be required to submit to a drug test within 15 days of release on supervised release, and at least two periodic drug tests thereafter, as directed by the probation officer.

Defendant shall not possess a firearm as defined in 18 U.S.C. § 921.

The Court further recommends that Defendant's term of imprisonment be carried out in the Bureau of Prisons Facility in Texarkana.

IT IS SO ORDERED.

SIGNED this 15th day of May, 2008.

A handwritten signature in black ink, reading "Michael H. Schneider". The signature is written in a cursive style with a large, stylized "M" and "S".

MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE